

1 Daniel F. Polsenberg  
2 Nevada Bar No. 2376  
3 J Christopher Jorgensen  
4 Nevada Bar No. 5382  
5 Abraham Smith  
6 Nevada Bar No. 13250  
7 LEWIS ROCA ROTHGERBER CHRISTIE LLP  
8 3993 Howard Hughes Pkwy, Suite 600  
9 Las Vegas, NV 89169  
10 Tel: 702.949.8200  
11 E-mail: [dpolsenberg@lrrc.com](mailto:dpolsenberg@lrrc.com)  
12 E-mail: [cjorgensen@lrrc.com](mailto:cjorgensen@lrrc.com)  
13 E-mail: [asmith@lrrc.com](mailto:asmith@lrrc.com)

14 *Co-Counsel for Plaintiff*  
15 *United Automobile Insurance Company*

16 **UNITED STATES DISTRICT COURT**  
17 **DISTRICT OF NEVADA**

18 UNITED AUTOMOBILE INSURANCE  
19 COMPANY,

20 Plaintiff,

21 vs.

22 THOMAS CHRISTENSEN, an individual; E.  
23 BREEN ARNTZ, an individual; and GARY  
LEWIS, an individual,

24 Defendants.

25 Case No.: 2:18-cv-02269-JAD-BNW

26 **JOINT STATUS REPORT**  
27 **REGARDING STAY OF DISCOVERY**  
(ECF NO. 40)

28 Thomas Christensen, E. Breen Arntz, Gary Lewis (“Defendants”) and United  
Automobile Insurance Company (“Plaintiff”) hereby submit this Joint Status Report Regarding  
Stay of Discovery (ECF No. 40) with a request for a continued stay of discovery with a status  
report to be filed with the Court 90 days from today’s date (i.e. September 26, 2020) regarding  
developments from other courts considering matters that may affect this case.

29 **INTRODUCTION**

30 Plaintiff filed its Complaint in this case on November 28, 2018. (ECF No. 1) Defendant  
31 Christensen filed a Motion to Dismiss on February 22, 2019. (ECF No. 5) Defendant Arntz  
32 filed a Joinder to Christensen’s Motion to Dismiss on March 1, 2019. (ECF No. 9) Defendant  
33 Lewis filed a Joinder to Christensen’s Motion to Dismiss on March 1, 2019 (ECF No. 10) and

1 an additional Motion to Dismiss on March 1, 2019. (ECF No. 11) This Court denied the  
2 Motions to Dismiss on September 13, 2019 (ECF No. 32). As part of that Order, this Court  
3 ordered the parties to submit a Discovery Plan and Scheduling Order by September 27, 2019.

4 On September 27, 2019, the parties jointly sought a stay of discovery (ECF No. 33)  
5 because this lawsuit is related to a larger dispute in cases (some of which are pending) in the  
6 Eighth Judicial District Court, Case No. A-07-549111-C (consolidated with A-18-772220-C);  
7 the Nevada Supreme Court, Case Nos. 79487, 78243, 78085, and 70504; the Ninth Circuit  
8 Court of Appeals, Case No. 13-17441; and another case in California. This Court granted the  
9 request to stay discovery (ECF \_\_). On March 26, 2020, the parties submitted a second joint  
10 status report (ECF 52). The parties indicated there were still ongoing related proceedings and  
11 requested the stay of discovery in this case be extended another 90 days. This Court agreed  
12 and extended the stay (ECF 53).

13 Over the past three months many of the other related proceedings have made significant  
14 progress. The Ninth Circuit dismissed Gary Lewis's and James Nalder's appeal (Ninth Cir.,  
15 Case 13-17441, Dkt. 90); the parties now await the Ninth Circuit's ruling on Appellants'  
16 Petition for Panel rehearing and Petition for Rehearing En Banc (Ninth Cir., Case 13-17441,  
17 Dkt. 91). The parties are also waiting on the Nevada District Court to rule on Motions for  
18 Attorneys' Fees and Costs in cases A-18-772220-C, A-07-549111, pending in the Eighth  
19 Judicial District Court.

20 **THIS CASE: 2:18-cv-02269-JAD-BNW**

21 On October 4, 2019, this Court granted the Stipulation to Stay Proceedings (ECF 40).  
22 Defendants Christensen, Lewis and Arntz filed their Answers to Complaint. (ECF Nos. 34, 36  
23 and 39). On October 10 and 11, 2019, Defendant Christensen, Lewis and Arntz filed Motions  
24 for Reconsideration of this Court's September 13, 2019 Order. (ECF No. 10, 40 through 43).  
25 On October 24, 2019 Plaintiff opposed the Motions for Reconsideration and Joinders (ECF No.  
26 46). On October 31, 2019, Christensen filed his Reply in Support of Reconsideration (ECF No.  
27 47). On December 18, 2019 Christensen sought leave to file supplemental authorities in support  
28 of his Motion for Reconsideration to this Court. (ECF Nos. 48 and 49). Since then, the parties

3993 Howard Hughes Pkwy, Suite 600  
Las Vegas, NV 89169-5996

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1 have filed requests to stay discovery in this matter twice pending the outcome of the other  
 2 related cases.

### 3 APPEAL IN THE NINTH CIRCUIT

4 On June 4, 2020, the Ninth Circuit granted Appellee's Motion to Dismiss for Lack of  
 5 Standing. Appellants' Motion to Supplement the Record, filed on November 14, 20109 and  
 6 Motion to Take Judicial Notice, filed on May 1, 2020 were denied and the appeal was  
 7 dismissed. (ECF 90 in Ninth Circuit Docket 13-17441). On June 18, 2020, Appellants Gary  
 8 Lewis and James Nalder filed a petition for rehearing and petition for rehearing en banc. (ECF  
 9 91). The Ninth Circuit has not decided that petition.

### 10 TWO WRITS IN THE NEVADA SUPREME COURT

11 On April 30, 2020, the Nevada Supreme Court granted in part and denied in part  
 12 Nalder's and Lewis's writ petitions in Docket Nos. 78085 and 78243. Nalder and Lewis filed a  
 13 motion for reconsideration and for attorney's fees and costs, which remains pending.

### 14 UAIC'S APPEAL IN THE NEVADA SUPREME COURT

15 On August 21, 2019, UAIC appealed the state district court's ruling refusing to set aside  
 16 the amended judgment against Gary Lewis. On May 13, 2020, UAIC suggested that the appeal  
 17 be dismissed as moot in light of the Supreme Court's intervening decision on the writ petitions.  
 18 The Court has not yet acted on the suggestion.

### 19 THE NEVADA STATE DISTRICT COURT PROCEEDING

20 In accordance with the Nevada Supreme Court's decision on the writ petitions, District  
 21 Judge Johnson in Case No. A-07-549111-C struck UAIC's intervention and reassigned Case  
 22 No. A-18-772220-C (which had been consolidated before Judge Johnson) back to Judge  
 23 Kephart. Nalder filed a motion for attorney's fees in Case No. A-07-549111-C. Lewis filed  
 24 motions for attorney's fees in both cases. All three motions remain pending.

### 25 CONCLUSION

26 The parties believe that the stay of discovery in this proceeding should remain in place  
 27 pending a final resolution of Nalder's and Lewis's petition for rehearing before the Ninth  
 28 Circuit. Accordingly, the parties request a continued stay of discovery with a status report to

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1 be filed with the Court 90 days from today's date (i.e. September 26, 2020).

2 DATED this 26<sup>th</sup> day of June, 2020.

3 **WINNER & SHERROD**

4 By: /s/ Matthew J. Douglas

5 Matthew John Douglas  
Thomas E. Winner  
6 1117 South Rancho Drive  
Las Vegas, Nevada 89102

7 *Attorneys for Plaintiff*

8 DATED this 26<sup>th</sup> day of June, 2020.

9 **LEWIS ROCA ROTHGERBER  
CHRISTIE LLP**

10 By: /s/ J Christopher Jorgensen

11 Daniel F. Polsenberg (# 2376)  
J Christopher Jorgensen (# 5382)  
Abraham Smith (# 13250)  
3993 Howard Hughes Pkwy, Suite 600  
Las Vegas, NV 89169

12 *Co-Counsel for Plaintiff United  
Automobile Insurance Company*

13 DATED this 26<sup>th</sup> day of June, 2020.

14 **SANTORO WHITMIRE**

15 By: /s/ James E. Whitmire

16 James E. Whitmire (#6533)  
10100 W. Charleston Blvd., Suite 250  
Las Vegas, Nevada 89135

17 *Attorneys for Defendant Thomas Christensen*

18 DATED this 26<sup>th</sup> day of June, 2020.

19 **MARQUIS AURBACH COFFING**

20 By: /s/ Brian R. Hardy

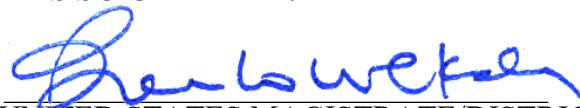
21 Terry A. Coffing (#4949)  
Brian R. Hardy (#10068)  
10001 Park Run Drive  
Las Vegas, Nevada 89145

22 *Attorneys for Defendant E. Breen Arntz*

23 **IT IS ORDERED that the stay  
of discovery is continued in  
this case.**

24 **IT IS FURTHER ORDERED  
that the parties' joint status  
report is due August 26, 2020.**

25 **IT IS SO ORDERED:**

26   
27 UNITED STATES MAGISTRATE/DISTRICT  
COURT JUDGE

28 8/11/2020

DATED: \_\_\_\_\_